

REMARKS

I. INTRODUCTION

Claims 1 - 94 have been cancelled. Claims 95-120 have been added. The Title, the Abstract, and the Specification have been amended. Thus, claims 95-120 are now pending in the present application. No new matter has been added. In light of the above amendments and the following remarks, Applicant respectfully submits that all presently pending claims are in condition for allowance.

II. THE SPECIFICATION OBJECTIONS SHOULD BE WITHDRAWN

The Abstract of the present application is objected to for being too long. The Title of the present application stands objected to for lacking descriptiveness. The specification is objected to because the summary of the invention is too long. In view of the above amendments, the withdrawal of these objections is respectfully requested.

III. THE 35 U.S.C. § 101 REJECTION SHOULD BE WITHDRAWN

Claims 35-66, 93, and 94 stand rejected under 35 U.S.C. § 101 for being directed towards non-statutory subject matter.

Newly added independent claims 95, 102, 103, 110, 115, and 116 are generally directed to a coding process. Independent method claims 95 and 110 and independent device claims 102, 103, 115, and 116 comprise several similar limitations and further comprise a few distinct limitations. However, all of these claims are generally directed to a decoding process for signals coded according to the above-mentioned coding process.

It is respectfully submitted that claim 95 as a whole describes tangible operations and provides a useful, concrete result. Regarding the alleged lack of “machine-or-transformation,” the *Bilski* decision by the U.S. Supreme Court, dated June 28, 2010, has declared that a claim cannot be declared non-statutory on the sole basis that “it is not tied to a machine and does not transform an article.” In that decision, the Court determined that the “machine or transformation” test is “just an important and useful clue” in

determining whether or not a claim meets with the requirements of 35 U.S.C. § 101. The Court actually cites, with apparent approval, *amicus brief* arguments about how “the machine-or-transformation test would create uncertainty as to the patentability of software, (...) and inventions based on linear programming, data compression, and the manipulation of digital signal.” This argument directly applies to the present invention. Consequently, the rejection under 35 U.S.C. § 101 is not supported by the current state of the law.

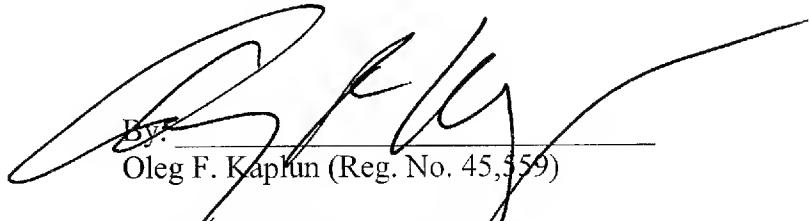
The Examiner addresses the use of “insignificant extra-solution activity” that may not transform an unpatentable principle into a patentable process. (*See 7/20/10 Office Action*, p. 7). However, the Examiner does not specifically indicate whether or not such “activity” is deemed present in the claims. In any case, claim 95 comprises limitations that modify a weighted sound signal of a current frame in relation to a zero-input response of a weighting filter. None of the operations of claim 95 may be reasonably construed as “insignificant” or without meaning. These operations modify a coded sound signal. Therefore, there is thus a tangible result to the method of claim 95.

The Examiner also indicates that the claims of the present application are “a computer program.” (*Id.*). However, it is respectfully submitted that the subject matter of claim 95 extends beyond a mere algorithm because its scope covers a method of switching between sound signal coding modes, in which a sound signal that has been filtered through a weighting filter is modified by removal of a zero-input response of the weighting filter. This method has concrete industrial applications. Independent claims 102, 103, 115, and 116 are devices that carry out either the same or substantially the same method steps of method claims 95 and 110. Accordingly, the withdrawal of this rejection is respectfully requested.

CONCLUSION

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,



Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, New York 10038
Tel.: (212) 619-6000
Fax: (212) 619-0276

Dated: November 22, 2010